

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

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U.S. DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CLERK

In re: deposition of)
) NO. 1:02-mc-21
PATRICK FERGAL MCSHARRY)
) (Edgar/Carter)
)

ORDER

Previously, the undersigned ordered that six plaintiffs in six cases from foreign jurisdictions ("plaintiffs") could depose Dr. McSharry in a single, consolidated deposition on September 4, 5, and 6, 2002 concerning the policies and practices of UnumProvident Corp. ("UnumProvident") in reviewing claims for disability benefits.¹ UnumProvident has since filed a motion for a protective order concerning the manner in which this deposition is to be taken. A hearing was held on said motion on Thursday, August 29, 2002 in which Attorneys Patrick Shea, Susan Lee, Angela Ripper, and John Meagher for UnumProvident; Attorney Harry Burnette for Dr. McSharry; and Attorneys Arnold Levinson, Stan Jacobs, and Bob Eisenfelder for the plaintiffs participated. I have fully considered the parties' briefs and their arguments made during the hearing. Accordingly, in the interest of conducting the deposition in an efficient, dignified manner and to avoid unnecessary disruption and to protect the privacy interests of claimants whose medical conditions may be discussed in whole or part during Dr. McSharry's deposition, it is ORDERED, pursuant to Fed. R. Civ. P. 26(c), that UnumProvident's motion for

¹The six cases chosen for Dr. Patrick F. McSharry's deposition are: *Carr v. UnumProvident Corp., et al.*, Docket No. CV-01-07380 (C.D. CAL.); *Chapman v. UnumProvident Corp., et al.*, Docket No. CV-01-2323 (CAL. S.Ct.); *Kakkis v. Provident Mutual Life Insurance Company of Philadelphia, et al.*, Docket No. CV-00-08297 (C.D. CAL.); *Kelly v. The Equitable Life Assurance Society of the United States, et al.*, Docket No. L-04722-01 (N.J. S.Ct.); *Ligorsky v. The Paul Revere Life Insurance Co.*, Docket No. CIV-00-1318 (D. Arizona); and *Zemel v. Provident Life and Accident Insurance Co.*, Docket No. CV-01-00994 (C.D. CAL.).

a protective order is GRANTED in the following manner:

- 1) The taking of the deposition shall not be broadcast over the Internet and members of the media shall not be allowed to attend. Only the parties and their counsel, Dr. McSharry's counsel, the court reporter, and the videographer may attend. Each plaintiff whose case was selected for this deposition may have one attorney present, and UnumProvident may have four attorneys present.
- 2) Plaintiffs' counsel shall choose among themselves three who will question Dr. McSharry. UnumProvident's counsel shall do likewise. The parties shall exchange the names of those attorneys designated to question Dr. McSharry on Tuesday, September 3, 2002.
- 3) The questioning shall proceed in an orderly manner with each attorney asking his or her questions in a consolidated block, except that attorneys will be given the opportunity to ask a limited number of follow-up question(s) after questioning by other attorneys is completed – provided such follow-up questioning does not become disruptive to the deposition process.
- 4) Each day of the deposition shall begin at 8:30 a.m. and end at 5:30 p.m. A minimum of the following breaks shall be taken: one hour for lunch, two (2) five minute breaks in the morning and two (2) five minute breaks in the afternoon. Longer or more frequent breaks may be taken by agreement. The videographer shall keep time unless otherwise agreed upon by the parties.
- 5) The plaintiffs shall have one and one half days to question Dr. McSharry and UnumProvident shall have one and one half days to question Dr. McSharry. The parties may appropriate their own time as they see fit between direct and redirect or cross and re-cross, as the case may be.
- 6) Following completion of the deposition, if any party believes confidential matters have been revealed during the course of the deposition which would make dissemination of the deposition transcript or videotape improper to anyone except the parties involved in the deposition, then that party may file a motion to have the deposition sealed pending redaction of the offending material. That party may also request an immediate hearing on the motion to seal and redact. Where such a motion has been filed, the deposition transcript and/or videotape may not be disseminated to anyone other than the parties involved in the deposition until the motion to seal has been resolved.

ENTER.


UNITED STATES MAGISTRATE JUDGE